

Office of the State Auditor
Division of State Audit

PROTECTION AND
ADVOCACY PROJECT
Bismarck, North Dakota

Audit Report for the
Two-Year Period Ended June 30, 2006
Client Code 360

Robert R. Peterson
State Auditor



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Transmittal Letter

January 17, 2007

The Honorable John Hoeven, Governor
Members of the North Dakota Legislative Assembly
Teresa Larsen, Executive Director, Protection and Advocacy Project

We are pleased to submit this audit of the Protection and Advocacy Project for the two-year period ended June 30, 2006. This audit resulted from the statutory responsibility of the State Auditor to audit or review each state agency once every two years. The same statute gives the State Auditor the responsibility to determine the contents of these audits.

In determining the contents of the audits of state agencies, the primary consideration was to determine how we could best serve the citizens of the state of North Dakota. Naturally we determined financial accountability should play an important part of these audits. Additionally, operational accountability is addressed whenever possible to increase efficiency and effectiveness of state government.

The in-charge auditor for this audit was Richard Fuher, CPA. Aaron Petrowitz was the staff auditor. Fred Ehrhardt, CPA, was the audit supervisor and Paul Welk, CPA, was the audit manager. Inquiries or comments relating to this audit may be directed to the audit supervisor by calling (701) 328-3647. We wish to express our appreciation to Teresa Larsen, Executive Director, and her staff for the courtesy, cooperation, and assistance they provided to us during this audit.

Respectfully submitted,

Robert R. Peterson
State Auditor

Executive Summary

INTRODUCTION

The North Dakota Protection and Advocacy Project is an independent state agency that protects and advocates for the rights of people with disabilities. "People" includes infants, children, and adults of all ages. The majority of the funds for program operations are from federal grants. Additional support is provided by the state of North Dakota. There are no costs for services; however, Protection and Advocacy Project does implement general eligibility requirements, including that the individual must reside within the state of North Dakota.

RESPONSES TO LAFRC AUDIT QUESTIONS

The Legislative Audit and Fiscal Review Committee (LAFRC) requests that certain items be addressed by auditors performing audits of state agencies.

1. What type of opinion was issued on the financial statements?

Financial statements were not prepared by the Protection and Advocacy Project in accordance with generally accepted accounting standards so an opinion is not applicable. The agency's transactions were tested and included in the state's basic financial statements on which an unqualified opinion was issued.

2. Was there compliance with statutes, laws, rules, and regulations under which the agency was created and is functioning?

Yes.

3. Was internal control adequate and functioning effectively?

Yes.

4. Were there any indications of lack of efficiency in financial operations and management of the agency?

No.

5. Has action been taken on findings and recommendations included in prior audit reports?

The Protection and Advocacy Project has implemented the recommendation included in the prior audit report.

6. *Was a management letter issued? If so, provide a summary below, including any recommendations and the management responses.*

Yes, a management letter was issued and is included on page 16 of this report, along with management's response.

LAFRC AUDIT COMMUNICATIONS

1. *Identify any significant changes in accounting policies, any management conflicts of interest, any contingent liabilities, or any significant unusual transactions.*

There were no significant changes in accounting policies, no management conflicts of interest were noted, no contingent liabilities were identified or significant unusual transactions.

2. *Identify any significant accounting estimates, the process used by management to formulate the accounting estimates, and the basis for the auditor's conclusions regarding the reasonableness of those estimates.*

The Protection and Advocacy Project's financial statements do not include any significant accounting estimates.

3. *Identify any significant audit adjustments.*

Significant audit adjustments were not necessary.

4. *Identify any disagreements with management, whether or not resolved to the auditor's satisfaction relating to a financial accounting, reporting, or auditing matter that could be significant to the financial statements.*

None.

5. *Identify any serious difficulties encountered in performing the audit.*

None.

6. *Identify any management consultations with other accountants about auditing and accounting matters.*

None.

7. *Identify any high-risk information technology systems critical to operations based on the auditor's overall assessment of the importance of the system to the agency and its mission, or whether any exceptions identified in the six audit report questions to be addressed by the auditors are directly related to the operations of an information technology system.*

ConnectND Finance and Human Resource Management System (HRMS) are high-risk information technology systems critical to the Protection and Advocacy Project.

Background Information

The mission of the North Dakota Protection and Advocacy Project is to unite to champion the equality and inclusion of people with disabilities where we live, learn, work, and play.

The Protection and Advocacy Project was established in 1977 as the designated agency in North Dakota to receive federal funds and provide advocacy and protective services under the Developmental Disabilities and Bill of Rights Act. Additional federal grants and programs have expanded the scope of the agency's mission to include individuals with other types of disabilities as well as targeted issues, such as assistive technology and traumatic brain injuries. The following is a list of North Dakota Protection and Advocacy Project's federal programs, the year implemented, and the corresponding federal law:

Protection and Advocacy's Federal Programs:

- Developmental Disabilities Advocacy Program.
 - Mental Health Advocacy Program.
 - Protection and Advocacy for Individual Rights.
 - Assistive Technology Advocacy Program.
 - Protection and Advocacy for Beneficiaries of Social Security.
 - Traumatic Brain Injury Advocacy Program.
 - Help America Vote Act.
- Developmental Disabilities Advocacy Program; 1977 (Developmental Disabilities Assistance and Bill of Rights Act, as amended).
 - Mental Health Advocacy Program; 1987 (Protection and Advocacy for Individuals with Mental Illness Act, as amended).
 - Protection and Advocacy for Individual Rights; 1994 (Section 509 of the Rehabilitation Act of 1973, as amended).
 - Assistive Technology Advocacy Program; 1995 (Technology-Related Assistance for Individuals with Disabilities Act, as amended).
 - Protection and Advocacy for Beneficiaries of Social Security; 2001 (Section 1150 of the Social Security Act, added by the Ticket to Work and Work Incentives Improvement Act, as amended).
 - Traumatic Brain Injury Advocacy Program; 2002 (Traumatic Brain Injury Act, as amended).
 - Help America Vote Act; 2003 (Help America Vote Act of 2002).

Protection and Advocacy Project was enacted in State statute in 1989. State authority for the agency is found under the *Committee on Protection and Advocacy*, North Dakota Century Code Chapter

25-01.3. Agency rules are promulgated under North Dakota Administrative Code Chapter 65.5-01.

Protection and Advocacy Project is governed by the Committee on Protection and Advocacy, a seven-member board appointed by the Governor (2 members); Legislative Council (2 members); Mental Health Association in North Dakota (1 member); People First of North Dakota (1 member); and the Association for Retarded Citizens of North Dakota (1 member). Protection and Advocacy Project also has three advisory councils for its advocacy programs: 1) Mental Health; 2) Protection and Advocacy for Beneficiaries of Social Security; and 3) Traumatic Brain Injury. The agency's executive director, Teresa Larsen, is appointed by the Committee on Protection and Advocacy.

Protection and Advocacy Project has nine offices in the state. They are located in Williston, Minot, Devils Lake, Grand Forks, Fargo, Jamestown, Bismarck, Dickinson, and Belcourt. Each office is staffed with one to three Disabilities Advocates. The Bismarck office houses the regional Disabilities Advocates as well as the agency's legal and administrative staff.

Services provided by the Protection and Advocacy Project include advocacy and legal representation, protective services, training, self-advocacy support, systems advocacy, information, and referral services.

More information about the agency can be obtained from the Protection and Advocacy Project's home page at:

<http://www.ndpanda.org>

The agency regularly reports to the Committee on Protection and Advocacy.

Audit Objectives, Scope, And Methodology

Audit Objectives

The objectives of this audit of the Protection and Advocacy Project for the two-year period ended June 30, 2006 were to provide reliable, audited financial statements and to answer the following questions:

1. What are the most important areas of the Protection and Advocacy Project's operations and is internal control adequate in these areas?
2. What are the significant and high-risk areas of legislative intent applicable to the Protection and Advocacy Project and are they in compliance with these laws?
3. Are there areas of the Protection and Advocacy Project's operations where we can help to improve efficiency or effectiveness?

Audit Scope

This audit of the Protection and Advocacy Project for the two-year period ended June 30, 2006 was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. To meet the objectives outlined above, we:

Audit Methodology

- Prepared financial statements from the legal balances on the state's accounting system tested as part of this audit and the audit of the state's Comprehensive Annual Financial Report and reviewed management's discussion and analysis of the financial statements.
- Performed detailed analytical procedures for expenditures and receipts.
- Tested samples of expenditures, journal vouchers, and correcting entries.
- Tested samples of payroll transactions.
- Reviewed prior year audit workpapers.
- Interviewed appropriate agency personnel.
- Reviewed Protection and Advocacy Project's written plans and applicable manuals.
- Reviewed Protection and Advocacy Project's annual reports.
- Observed Protection and Advocacy Project's processes and procedures.
- Reviewed North Dakota Century Code chapter 25-01.3 and 2003 and 2005 Session Laws.
- Reviewed industry best practices through the use of Internet searches.
- Searched for recent studies or reports relating to the Protection and Advocacy Project.

Management's Discussion And Analysis

The accompanying financial statements have been prepared to present the Protection and Advocacy Project's revenues and expenditures on the legal (budget) basis. The accompanying financial statements are not intended to be presented in accordance with generally accepted accounting principles (GAAP).

The following management discussion and analysis was prepared by Protection and Advocacy Project's management. We have applied certain limited procedures, which consisted primarily of inquiries of management regarding the methods of measurement and presentation of this supplementary information to ensure it does not conflict with the knowledge we gained as part of our audit.

For the two-year period ended June 30, 2006, operations of the Protection and Advocacy Project were primarily supported by revenue received from the federal government. This is supplemented by appropriations from the state's general fund.

FINANCIAL SUMMARY

Revenues consisted primarily of federal grants: Developmental Disabilities, Mental Health, Protection and Advocacy of Individual Rights, Assistive Technology, Protection and Advocacy for Beneficiaries of Social Security, Traumatic Brain Injury, and Help America Vote Act. These all remained fairly constant for the Protection and Advocacy Project, with a couple of the grants decreasing slightly. As of June 30, 2005, the agency's contract with the ND Department of Public Instruction was completed with \$12,714 being received and spent during the preceding twelve month period.

Other revenue during the period was realized through: 1) a federal grant in the amount of \$1,270,981 (fiscal year 2005) for low-interest loans for assistive technology devices and services which was passed through to a private non-profit that put up \$423,661 in match; 2) two instances where the agency received fees for legal representation (\$1,000 in the year ending June 30, 2005 and \$10,000 in the year ending June 30, 2006); and 3) a grant from the ND Developmental Disabilities Council for start-up of the Belcourt office (\$2,102 for the year ending June 30, 2005 and \$13,427 for the year ending June 30, 2006. Total revenues were \$1,195,178 for the year ended June 30, 2006 as compared to \$2,275,211 for the year ended June 30, 2005.

Federal revenue sources have not changed over the two-year period ending June 30, 2006. They include: 1) the US Department of Health and Human Services (Developmental Disabilities, Mental Health, Traumatic Brain Injury, and the Help American Vote Act); 2) the U.S. Department of Education (Protection and Advocacy of Individual Rights and Assistive Technology); and 3) the Social Security Administration (Protection and Advocacy of Beneficiaries of Social Security).

Total expenditures for the Protection and Advocacy Project were \$1,645,884 for the year ended June 30, 2006 as compared to \$2,819,571 for the prior year. The decrease in total expenditures for the second year audited reflects the pass through grant in the amount of \$1,270,981 in the first audited year. All other expenditures remained fairly constant with the exception of increases in salaries and benefits. This increased due to: 1) the addition of a new branch office in Belcourt with one new FTE as of July 1, 2005; 2) the hiring of a temporary position as of January 3, 2006 for the Help American Vote grant; 3) increased premiums for health insurance as of July 1, 2005; and 4) salary increases effective July 1, 2005 as authorized by the Governor and Legislature.

ANALYSIS OF SIGNIFICANT CHANGES IN OPERATIONS

In early 2005, the Protection and Advocacy Project divided its disabilities advocates into two units. One unit focuses on prevention and response to abuse, neglect, and exploitation while the second deals with training and advocacy representation where there appears to be a rights violation. A director leads and supervises each unit. Legal services are pulled in as needed. The office in Belcourt was established to help provide advocacy to the underserved population on the Turtle Mountain reservation. A temporary employee was hired in January of 2006 to assist with training and coordination of the Help American Vote grant.

Financial Statements

STATEMENT OF REVENUES AND EXPENDITURES

| | <u>June 30, 2006</u> | <u>June 30, 2005</u> |
|---|----------------------|----------------------|
| <u>Revenues and Other Sources:</u> | | |
| Federal Revenue | \$ 1,180,037 | \$ 2,260,286 |
| Legal Services | 10,015 | 1,000 |
| Transfers In | 5,126 | 13,925 |
| Total Revenues and Other Sources | <u>\$ 1,195,178</u> | <u>\$ 2,275,211</u> |
| <u>Expenditures:</u> | | |
| Salaries and Benefits | \$ 1,284,277 | \$ 1,152,341 |
| Travel | 95,738 | 90,414 |
| Lease/Rent – Building/Land | 84,406 | 83,264 |
| IT – Data Processing | 31,256 | 20,708 |
| IT – Communications | 21,275 | 21,245 |
| Professional Development | 20,403 | 22,717 |
| Fees – Professional Services | 17,098 | 41,666 |
| Grants, Benefits, and Claims | 10,000 | 1,280,981 |
| Other Operating Expenses | 81,432 | 106,234 |
| Total Expenditures | <u>\$ 1,645,884</u> | <u>\$ 2,819,571</u> |

STATEMENT OF APPROPRIATIONS

For The Fiscal Year Ended June 30, 2006

| Expenditures by Line Item: | <u>Original Appropriation</u> | <u>Adjustments</u> | <u>Final Appropriation</u> | <u>Expenditures</u> | <u>Unexpended Appropriation</u> |
|--|-----------------------------------|--------------------|--------------------------------|---------------------|-------------------------------------|
| Protection and Advocacy Services | \$ 3,720,979 | | \$ 3,720,979 | \$ 1,645,562 | \$ 2,075,417 |
| Totals | <u>\$ 3,720,979</u> | | <u>\$ 3,720,979</u> | <u>\$ 1,645,562</u> | <u>\$ 2,075,417</u> |
| Expenditures by Source: | | | | | |
| General Fund | \$ 812,093 | | \$ 812,093 | \$ 360,263 | \$ 451,830 |
| Federal Funds | <u>2,908,886</u> | | <u>2,908,886</u> | <u>1,285,299</u> | <u>1,623,587</u> |
| Totals | <u>\$ 3,720,979</u> | | <u>\$ 3,720,979</u> | <u>\$ 1,645,562</u> | <u>\$ 2,075,417</u> |

For The Biennium Ended June 30, 2005

| Expenditures by Line Item: | <u>Original Appropriation</u> | <u>Adjustments</u> | <u>Final Appropriation</u> | <u>Expenditures</u> | <u>Unexpended Appropriation</u> |
|--|-----------------------------------|---------------------|--------------------------------|---------------------|-------------------------------------|
| Protection and Advocacy Services | \$ 3,226,255 | \$ 1,270,981 | \$ 4,497,236 | \$ 4,280,712 | \$ 216,524 |
| Totals | <u>\$ 3,226,255</u> | <u>\$ 1,270,981</u> | <u>\$ 4,497,236</u> | <u>\$ 4,280,712</u> | <u>\$ 216,524</u> |
| Expenditures by Source: | | | | | |
| General Fund | \$ 782,723 | | \$ 782,723 | \$ 782,600 | \$ 123 |
| Federal Funds | 2,443,532 | \$ 1,270,981 | 3,714,513 | 3,498,112 | 216,401 |
| Totals | <u>\$ 3,226,255</u> | <u>\$ 1,270,981</u> | <u>\$ 4,497,236</u> | <u>\$ 4,280,712</u> | <u>\$ 216,524</u> |

Appropriation Adjustments:

The increase of \$1,270,981 was approved by the Emergency Commission in fiscal year 2004 to establish an Alternate Finance Loan Program to expand personal financing options for North Dakotans with disabilities in purchasing assistive technology devices and services.

Internal Control

In our audit for the two-year period ended June 30, 2006, we identified the following areas of the Protection and Advocacy Project's internal control as being the most important:

Internal Controls Subjected To Testing

- Controls surrounding the processing of revenues.
- Controls surrounding the processing of expenditures.
- Controls effecting the safeguarding of assets.
- Controls relating to compliance with legislative intent.
- Controls surrounding the ConnectND (PeopleSoft) system.

We gained an understanding of internal control surrounding these areas and concluded as to the adequacy of their design. We also tested the operating effectiveness of those controls we considered significant. We concluded internal control was adequate. Our consideration of internal control would not necessarily disclose all matters that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements that would be material may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving internal control and its operation that we consider to be material weaknesses. However, we noted other matters involving internal control that we have reported to management of Protection and Advocacy Project in a management letter dated January 17, 2007.

Compliance With Legislative Intent

In our audit for the two-year period ended June 30, 2006, we identified and tested Protection and Advocacy Project's compliance with legislative intent for the following areas that we determined to be significant and of higher risk of noncompliance:

Legislative Intent Subjected To Testing

- Submission of a bi-monthly report to the Committee on Protection and Advocacy as required by the North Dakota Century Code 25-01.3-03.
- Submission of an annual report to the legislative assembly and the governor as required by the North Dakota Century Code 25-01.3-06(10).
- Compliance with appropriations and related transfers (2003 North Dakota Session Laws chapter 35).
- Compliance with OMB's Purchasing Procedures Manual.
- Travel-related expenditures are made in accordance with OMB policy and state statute.
- Adequate blanket bond coverage of employees (NDCC section 26.1-21-08).
- Compliance with fixed asset requirements including record keeping, surplus property, lease and financing arrangements in budget requests, and lease analysis requirements.
- Compliance with payroll related laws including statutory salaries for applicable elected and appointed positions, and certification of payroll.

The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*. Thus, we concluded there was compliance with the legislative intent identified above. However, we noted certain immaterial instances of noncompliance that we have reported to management of the Protection and Advocacy Project in a management letter dated January 17, 2007.

Operations

This audit did not identify any significant areas of Protection and Advocacy Project's operations where we determined it was practical at this time to help to improve efficiency or effectiveness. However, we noted a matter involving operations that we have reported to management of Protection and Advocacy Project in a management letter dated January 17, 2007.

Management Letter (Informal Recommendations)

January 17, 2007

Ms. Teresa Larsen
Executive Director
Protection and Advocacy Project
400 East Broadway, Suite 409
Bismarck, North Dakota 58501

Dear Teresa Larsen:

We have performed an audit of the Protection and Advocacy Project for the two-year period ended June 30, 2006, and have issued a report thereon. As part of our audit, we gained an understanding of the Protection and Advocacy Project's internal control structure to the extent we considered necessary to achieve our audit objectives. We also performed tests of compliance as described in the same report.

Our audit procedures are designed primarily to enable us to report on our objectives including those related to internal control and compliance with laws and regulations and may not bring to light all weaknesses in systems and procedures or noncompliance with laws and regulations which may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions which we hope will be useful to you.

In connection with the audit, gaining an understanding of the internal control structure, and tests of compliance with laws and regulations referred to above, we noted certain conditions we did not consider reportable within the context of your audit report. These conditions relate to areas of general business practice or control issues that have no significant bearing on the administration of federal funds. We do, however, want to present our recommendations to you for your consideration and whatever follow-up action you consider appropriate. During the next audit we will determine if these recommendations have been implemented, and if not, we will reconsider their status as non-reportable conditions.

The following present our informal recommendations.

ACCOUNTS PAYABLE/EXPENDITURES

Informal Recommendation 06-1:

We recommend Protection and Advocacy Project reevaluate their application for blanket bond coverage, make the necessary changes, and reapply for coverage as needed.

Informal Recommendation 06-2:

We recommend Protection and Advocacy Project conduct an annual physical inventory of property of sufficient value in accordance with North Dakota Century Code Section 44-04-07.

Informal Recommendation 06-3:

We recommend Protection and Advocacy Project comply with OMB State Procurement Guidelines for all purchases by obtaining the required number of bids using the proper format or provide a written explanation justifying why the bids were not obtained.

OPERATIONAL IMPROVEMENT

Informal Recommendation 06-04:

We recommend the Protection and Advocacy Project make the following improvements to their website:

1. Provide contact information on the homepage.
2. Provide a general overview of the Protection and Advocacy Project on the homepage.
3. Provide more resourceful questions to the FAQs section.

Management of Protection and Advocacy Project agreed with these recommendations.

I encourage you to call myself or an audit manager at 328-2241 if you have any questions about the implementation of recommendations included in your audit report or this letter.

Sincerely,

Richard Fuher, CPA
Auditor in-charge